between one kind of income taxes and another, but that the whole purpose of the amendment was to relieve all income taxes when imposed from apportionment from a consideration of the source whence the income was derived. Indeed in the light of the history which we have given and of the decision in the Pollock Case and the ground upon which the ruling in that case was based, there is no escape from the conclusion that the amendment was drawn for the purpose of doing away for the future with the principle upon which the Pollock Case was decided, that is, of determining whether a tax on income was direct not by a consideration of the burden placed on the taxed income upon which it directly operated, but by taking into view the burden which resulted on the property from which the income was derived, since in express terms the amendment provides that income taxes, from whatever source the income was derived, shall not be subject to the regulation of apportionment.'

"What was there said was reaffirmed and applied in Stanton *v.* Baltic Mining Co., 240 U. S. 103, 112, 113, 36 Sup. Ct. 278, 60 L. Ed. 546, and Peck & Co. *v.* Lowe, 247 U. S. 165, 172, 38 Sup. Ct. 432, 62 L. Ed. 1049, and in Eisner *v.* Macomber, 254 U. S. —, 40 Sup. Ct. 189, 64 L. Ed. —, decided at the present term, we again held, citing the prior cases, that the amendment 'did not extend the taxing power to new subjects, but merely removed the necessity which otherwise might exist for an apportionment among the states of taxes laid on income.'

"After further consideration, we adhere to that view and accordingly hold that the Sixteenth Amendment does not authorize or support the tax in question."

War Prohibition Act—State Law Not Suspended.—In Ex parte Guerra, 110 Atl. 224, the Supreme Court of Vermont held that the statute of that state prohibiting the unlicensed traffic in intoxicating liquors, did not cease to be of force or become suspended because of the subsequent enactment of the War Prohibition Act, approved November 21, 1918 (U. S. Comp. St. Ann. Supp. 1919, secs. 3115 11/12f-3115 11/12h).

The court said in part: "In some of the war-time legislation Congress has expressly reserved to the States the exercise of police powers, and it is argued therefrom that the absence of such reservations in the War Prohibition Acts indicates the intention of the Federal government to occupy the whole field, and thus suspend the operation of State legislation on the subject. But there was no need for Congress to authorize the continued exercise by the States of a power that had not been surrendered, and of which, as we have seen, they could by no means be deprived (South Carolina *v.* United States, 199 U. S., 437, 26 Sup. Ct., 110, 50 L. Ed., 261, 4 Ann. Cas., 737; Keller

v. United States, 213 U. S., 138, 29 Sup. Ct., 470, 53 L. Ed., 737, 16 Ann Cas., 1066). The cases cited support the following conclusions: In enacting war prohibition Congress was without authority to exercise and did not assume to exercise the police power. The right and duty to legislate in this field for the general welfare remained in the States unimpaired. Congress was at liberty to employ as a war measure the same means to accomplish its objects as the State was using to accomplish an independent object. The mere fact that the Federal act is similar to the State law in some of its provisions does not invalidate the latter. To have this effect, the State law must in operation interfere with the enforcement of the Federal act. Though a State police regulation must yield to a valid act of Congress, it yields only when and to the extent that its enforcement conflicts therewith, or with the exercise of rights conferred, or the discharge of duties enjoined, by the paramount act. To the extent that the two are in harmony the acts are concurrent, the one supplementing the other. It follows that, as the enforcement of the prohibitory features of the State law does not obstruct or embarrass the execution of the act of Congress, there is no invalidating conflict.

"It is no objection to the concurrent validity of the two statutes that both penalize the same act, for it has been repeatedly held that the same act may constitute a criminal offense equally against the United States and the State, subjecting the guilty party to punishment under the laws of each, provided the act is one over which both sovereignties have jurisdiction (Cross *v.* North Carolina, 132 U. S., 131, 10 Sup. Ct., 47, 33 L. Ed., 287, 290; Crossley *v.* California, 168 U. S., 640, 18 Sup. Ct., 242, 42 L. Ed., 610; Southern R. Co. *v.* Railroad Comm'rs, 236 U. S., 439, 35 Sup. Ct., 304, 59 L. Ed., 661)."